

# Confidentiality – general principles



**MPS**



Putting members **first**

Advice correct as of June 2015

The SMC's Physician's Pledge requires all doctors to pledge "to respect the secrets which are confided in me". Confidentiality is at the centre of maintaining trust between patients and doctors. As a doctor, you have access to sensitive personal information about patients and you have a duty to keep this information confidential, unless the patient consents to the disclosure, disclosure is required by law, or is necessary in the public interest. This factsheet sets out the basic principles of confidentiality.

## General principles

The SMC, in its *Ethical Code and Ethical Guidelines*, states that "information obtained in confidence or in the course of attending to the patient" should not be disclosed without a patient's consent.

You should ensure that data relating to an identifiable individual is held securely and is not accessible to unauthorised persons. This includes sending or storing medical information by electronic means, either via a website or by email. Any information held should be clear, accurate and up-to-date, and kept only as long as necessary for the purpose of providing healthcare or enabling a response to a future claim. You should take care to avoid unintentional disclosure – for example, by ensuring that any consultations with patients cannot be overheard.

## Retaining records

The legal requirement for retention of medical records is 15 years. Hospitals have to retain secondary medical records for 17 years. The legal requirements for the retention of medical records are laid out in the Limitation Act.

## Consent to disclosure

Before disclosing any information about a patient to a third party, you should seek the patient's consent to the disclosure. Consent may be implied or express, eg, most patients understand that information about their health needs to be shared within the healthcare team providing care, and so implied consent is adequate in this circumstance. A patient may request that certain information is withheld, and in such circumstances the SMC suggests explaining to the patient the benefits that sharing information brings to their care. If a patient still objects, you must comply – doing your best to ensure the overall management of care is not adversely affected by this lack of disclosure.

It is accepted that indirect disclosure is inevitable in large institutions involving a large number of medical, nursing and administrative staff who need to access patient information as part of their work. The SMC notes that doctors should readily share information about patients in patients' best interests unless the patient has specifically objected to the disclosure.

Express consent is needed if patient-identifiable data is to be disclosed for any other purpose, except if the disclosure is required by law or is necessary in the public interest.

## Valid consent

In order for consent to disclosure to be valid, the patient needs to be competent to give consent, and provided with full information about the extent of the disclosure. Adult patients are assumed to be competent, unless you have specific reason to doubt this. If the patient is a minor or of a diminished ability to give consent for disclosure of information or for treatment, the SMC states that "this information shall be explained to his parent, guardian, or person responsible for him for the purpose of consent on behalf of the patient".

When taking consent for disclosure of information about a patient, you should ensure the patient is aware of what data will be disclosed, and to whom, and for what purpose.

## Withholding information

A patient's relatives may ask that the patient is not to be told if he has a fatal or socially-embarrassing illness. The SMC states: "A doctor may not withhold this information from the patient unless the doctor determines that this is in the best interest of the patient." You should always put the patient first, but you should recognise the role of the family in the decision about whether to disclose a diagnosis to a patient and address their concerns adequately.



## Further information

- Singapore Medical Council, *Ethical Code and Ethical Guidelines* – [www.smc.gov.sg](http://www.smc.gov.sg)
- Limitation Act – [www.sma.org.sg](http://www.sma.org.sg)

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**For medicolegal advice please call us on:**

**800 616 7055**

**or email us at: [querydoc@mps.org.uk](mailto:querydoc@mps.org.uk)**

**[www.medicalprotection.org](http://www.medicalprotection.org)**

This factsheet provides only a general overview of the topic and should not be relied upon as definitive guidance. If you are an MPS member, and you are facing an ethical or legal dilemma, call and ask to speak to a medicolegal adviser, who will give you specific advice.

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